

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ROGER D. WOOLEYHAN	:	CIVIL ACTION
	:	
v.	:	
	:	
CAPE HENLOPEN BOARD OF EDUCATION, et al.	:	NO. 10-153

ORDER

The Court held a pretrial conference and argument on September 29, 2010 concerning several outstanding motions. The transcript of the hearing will provide detailed rulings on the scope of discovery and the reasons for the following actions. Accordingly, it is hereby ORDERED as follows:

1. Defendants' Motion to Dismiss for Failure to State a Claim Pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure, (Doc. No. 88) must be treated as a Motion for Summary Judgment pursuant to Rule 12(d). The Motion to Dismiss is DENIED without prejudice and may be refiled as a Motion for Summary Judgment at any time, up to the deadline set forth below.
2. Counsel shall conduct discovery pursuant to the rulings of the Court, which are contained in the transcript of the hearing.
3. Discovery shall begin, as limited by the Court, on the issues noted by the Court, and shall be completed by November 24, 2010.
4. Plaintiff shall file a statement of factual and legal contentions as to each individual Defendant, no later than December 8, 2010, in numbered paragraphs, limited to twenty-five (25) pages, double-spaced.

5. Motions for Summary Judgment shall be filed by December 22, 2010, responses are due by January 21, 2011, and replies, limited to fifteen (15) pages, shall be filed by January 28, 2011.

6. Oral argument will be scheduled for February 24, 2011 at 10:00 a.m. in Courtroom 3A.

7. Magistrate Judge David Strawbridge will contact counsel for a settlement conference.

8. If the parties have discovery disputes, they are encouraged and required to attempt a resolution, and if unsuccessful, a party may file a motion to compel and the Court will likely have a telephone conference to discuss resolution.

9. Discovery concerning pattern and practices by the Defendants Cape Henlopen Board of Education and Cape Henlopen High School is stayed pending completion of the discovery that the Court has allowed, and will be subject to Plaintiff demonstrating that Supreme Court or Third Circuit law recognizes the legal sufficiency of the claims Plaintiff has stated concerning pattern and practice.

Date: 10/1/10

BY THE COURT:



Michael M. Baylson, U.S.D.J.

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